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DEPT PASS USTR FOR KARESH, A. ROSENBERG, MCCARTIN  
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TREAS FOR OASIA/ISA-CUSHMAN  
USDOC FOR 4420/ITA/MAC/MCQUEEN  
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SUBJECT: CRITICISM OF AMERICAN BUSINESS FOR  
SUBMITTING COMMENTS ON DRAFT LABOR CONTRACT LAW

REF: BEIJING 9677

¶1. (SBU) Mission has recently become aware of criticism leveled at American businesses in China from western media and Congressional sources, particularly aimed at members of the American Chamber of Commerce in China (Amcham), for responding in March 2006 to an invitation for public comment on China's draft Labor Contract Law. This criticism has been put forward or reported in the following publications and letters:

-- Global Labor Strategies report, "Behind the Great Wall: U.S. Corporations Opposing New Rights for Chinese Workers"

-- The New York Times, "China Drafts Law to Empower Unions and End Labor Abuse," October 13, 2006

-- Letter from Congressman Rangel to Amcham Shanghai and US-China Business Council, dated October 24, 2006, (copy made available to us by AmCham)

-- Letter from Congress of the United States to President Bush dated October 31, 2006, (available on the Internet). In response, the US-China Business Council (USCBC) wrote to President Bush on November 7, 2006, to present its side of the story (copy provided to Embassy Beijing).

¶3. (SBU) In light of ongoing publicity and discussion of this issue, post notes that in May 2006, we provided an analysis (reftel) of the draft Labor Contract Law, noting the concerns raised by various businesses about specific provisions. We offer the following additional information for Washington agencies' consideration concerning the role of United States companies in the debate over the draft:

The National People's Congress (NPC) published the draft Labor Contract Law in March 2006, and openly solicited public comment. This was an unusual (but

not unprecedented) step for the NPC. (Comment. Embassy agrees with the numerous contacts who have interpreted the NPC's solicitation of comments as implying that the Chinese Government understands the potential implications such a law can have on the investment climate, suggesting a desire to get things right. The Chinese Government is clearly sensitive about projecting China's image as an open economy and a good place to do business. End Comment.)

-- Amcham provided the NPC with written comments on April 17, 2006, commending it for attempting to address problems China is encountering in implementation of the existing labor laws, while also pointing out what Amcham members perceived to be potential problems in the draft law. Amcham provided respectful, well-reasoned arguments to support their position. The USCBC also provided comments.

-- Although the comments and positions taken by these organizations have drawn criticism, post is unaware of any lobbying effort against the Labor Contract Law, or any attempt to prevent the draft law from moving forward, by Amcham or any other party. The USCBC's letter to President Bush specifically stated that "beyond submitting comments on the draft law, USCBC has not engaged or 'lobbied' the PRC Government on this issue."

¶3. (SBU) Amcham and the USCBC have received no response to their comments from the NPC. Whether or not the NPC takes the comments of United States business into account will be apparent when the next

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draft of the Labor Contract Law is made public.

¶4. (SBU) Post can provide copies of the articles and letters referenced in this message. Please send requests to Laboff Bruce Levine at LevineBJ@state.gov.

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